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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 22, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

HER MAJESTY THE QUEEN IN RIGHT
OF CANADA AS REPRESENTED BY
THE MINISTER OF AGRICULTURE
AND AGRI-FOOD, a Canadian
governmental authority,

NO. 2:20-CV-00181-SAB

Plaintiff,

v.

VAN WELL NURSERY, INC., a
Washington Corporation, MONSON
FRUIT COMPANY, INC., a Washington
Corporation, GORDON GOODWIN, an
individual, and SALLY GOODWIN, an
individual,

**ORDER DENYING MOTION
FOR RECONSIDERATION**

Defendants.

Before the Court is Defendants' Motion for Reconsideration, ECF No. 452.

The motion was heard without oral argument. Plaintiff is represented by Alyssa Orellana, Jennifer Bennett, Daniel Short, Michelle Fischer, Cary Sullivan, and John O'Donnell. Defendant Van Well Nursery is represented by Kent Doll and

1 Katie Ross and Tim Billick. The Goodwin Defendants are represented by Quentin
2 Batjer and Tim Billick. Defendant Monson Fruit is represented by Mark Walters,
3 Mitchell West and Miles Yanick.

4 **Motion Standard**

5 Where a final judgment has not been entered, the Court has discretion to
6 reconsider under Rule 54(b), which allows courts to revise “any order or other
7 decision, however designated, that adjudicates fewer than all the claims or the
8 rights and liabilities of fewer than all the parties ... before the entry of a
9 judgment” Fed. R. Civ. P. 54(b); *Los Angeles v. Santa Monica Baykeeper*, 254
10 F.3d 882, 887 (9th Cir. 2001). Additionally, the Court has inherent common-law
11 authority “to rescind an interlocutory order over which it has jurisdiction.” *Id.*

12 **Defendants’ Motion**

13 Defendants argue the Court’s Order vacating its previous Order was clearly
14 wrong, manifestly unjust and prejudicial. Defendants maintain the Court
15 overlooked independent grounds of invalidity, the purported new evidence does
16 not justify reconsideration, there is no evidence of fraud or misrepresentation, and,
17 in fact, Exhibit 38 and Kyle Mathison’s testimony confirm invalidity. Defendants
18 assert the Court must consider independent grounds for invalidity of the ‘551
19 patent that were briefed on summary judgment in 2022.

20 **Analysis**

21 On January 3, 2022, the Court denied Defendants’ Motion for Partial
22 Summary Judgment. ECF No. 160. It found that genuine disputes of material fact
23 preclude summary judgment on the issue of patent invalidity. *Id.* Specifically, the
24 Court noted that Defendants did not produce a single definite example of a
25 commercial sale or offer of Staccato before the critical date. *Id.*

26 Then, on December 30, 2022, the Court granted Defendants’ Motion for
27 Summary Judgment, finding the ‘551 Patent was commercially sold in 2000 before
28 the critical date. ECF No. 287. The Court relied on Stemilt’s business records that

1 showed Stemilt received and packed 22,394 pounds, or 11.2 tons of “STOCATA”
2 in 2000. While Plaintiff argued Staccato would have been packed for the first time
3 by Stemilt in 2000 to see how it would hold up on the packing line, “the business
4 records also demonstrate[d] that in 2000, Stemilt sold 18,2000 pounds of Staccato
5 for \$37,683, at \$2.0705 per pound.” *Id.* The Court relied on Mr. Mathison’s
6 deposition testimony because it was corroborated by Stemilt’s business records.
7 The Court ultimately agreed with Defendants that the ‘551 Patent was invalid
8 because it was on sale prior to the critical date.

9 In its latest Order, the Court found it committed clear error in granting
10 summary judgment on the issue of patent invalidity because the complete Exhibit
11 38 and Mr. Mathison’s trial testimony created genuine issues of material fact
12 regarding whether Stemilt sold Sonata, not Staccato, in 2000. ECF No. 449.

13 So, in addition to the genuine disputes of material fact identified in the
14 Court’s January 3, 2022 Order, the Court found there was now genuine issues of
15 material facts regarding whether Plaintiffs offered Staccato for commercial sale
16 before the ‘551 Patent’s critical date. These genuine issues of material fact
17 preclude the granting of summary judgment. The interests of justice are served by
18 allowing the trier of fact to resolve the genuine issues of material fact surrounding
19 the question of whether the ‘551 Patent is valid. *Santa Monica Baykeeper*, 254
20 F.3d at 887 (“In short, the power to grant relief from erroneous interlocutory
21 orders, exercised in justice and good conscience, has long been recognized was
22 within the plenary power of courts until entry of final judgment and is not
23 inconsistent with any of the Rules.”) (quotation omitted).

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1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendants' Motion for Reconsideration, ECF No. 452, is **DENIED**.

3 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
4 this Order and to provide copies to counsel.

5 **DATED** this 22nd day of April 2025.



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10 Stanley A. Bastian

11 Stanley A. Bastian
12 Chief United States District Judge
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